

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

NICKOLUS G. TOEPFER

PLAINTIFF

v.

Case No. 3:20-cv-00150-LPR-JTR

**PHIL REYNOLDS, Sheriff,
Woodruff County, *et al.***

DEFENDANTS

ORDER

The Court has received a Partial Recommended Disposition from Magistrate Judge J. Thomas Ray. (Doc. 12). Plaintiff Nickolus G. Toepfer filed objections. (Doc. 13). After carefully considering the Partial Recommended Disposition and Plaintiff's objections, as well as conducting a *de novo* review of the record, the Court concludes that the Partial Recommended Disposition should be, and hereby is, approved and adopted as this Court's findings in its entirety.

IT IS THEREFORE ORDERED that Mr. Toepfer may PROCEED with his First Amendment free exercise claims against Phil Reynolds and Jim Dunham, acting in their individual capacity. The Clerk is directed to prepare Summonses for Reynolds and Dunham at the Woodruff County Detention Center, 500 North Third Street, August, Arkansas 72006. The United States Marshal is directed to serve the Summonses, Complaint and Amended Complaint (Docs. 1 & 7), and this Order, on the aforementioned Defendants at the Woodruff County Detention Center, without prepayment of fees and costs or security therefor.¹

Mr. Toepfer's claims against Reynolds and Dunham, in their official capacity, are DISMISSED without prejudice.² His claims that Dunham and Marshall Dawson denied him

¹ If either Defendant is no longer employed by Woodruff County, the individual responding to service must file a sealed statement providing the unserved Defendant's last known private mailing address.

² Dismissal of the official capacity claims is without prejudice. If, through discovery, Mr. Toepfer uncovers a policy, custom, or practice that caused the alleged violation of his rights, Federal Rule of Civil Procedure 15 would very

access to the courts are DISMISSED without prejudice. Pursuant to 28 U.S.C. § 1915(a)(3), the Court certifies that an *in forma pauperis* appeal of this Order would not be taken in good faith.

IT IS SO ORDERED this 28th day of April 2021.

A handwritten signature in black ink, appearing to read 'Lee P. Rudofsky', written over a horizontal line.

LEE P. RUDOFSKY
UNITED STATES DISTRICT JUDGE

likely allow an amendment at that time. *See* FED. R. CIV. P. 15(a)(2).